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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

DARNELL LEON GARNER,

Defendant and Appellant.

B234660

(Los Angeles County  
Super. Ct. No. BA383388)

APPEAL from a judgment of the Superior Court of Los Angeles County,  
Ray G. Jurado, Judge. Affirmed.

Darnell Leon Garner, in pro. per.; and Richard B. Lennon, under  
appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

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After defendant Darnell Leon Garner took Raymond Bills's car without permission and refused to return it in April 2011, defendant was arrested and charged by felony complaint with unlawfully driving or taking vehicle (Veh. Code, § 10851, subd. (a)(1)). It was specially alleged defendant had suffered one prior serious or violent felony conviction (robbery in case No. BA378342<sup>1</sup>) within the meaning of the "Three Strikes" law.

Appearing with appointed counsel on April 25, 2011, defendant waived his constitutional rights to a preliminary hearing and a jury trial. As part of a negotiated plea, defendant pleaded no contest to the charge of unlawfully driving or taking a vehicle and admitted the prior conviction for robbery in return for an aggregate state prison sentence of 32 months. Defendant also agreed, as a result of violating his probation in case No. BA378342, he would be sentenced to a concurrent state prison term of two years. Prior to entering his plea, defendant stated he understood and waived his constitutional rights, acknowledged he understood the consequences of his plea and admissions and accepted the terms of the negotiated agreement. Defense counsel joined in the waivers and plea and stipulated to a factual basis based upon the police reports. The trial court found defendant intelligently, voluntarily and knowingly waived his constitutional rights, and there was a factual basis for the plea.

Pursuant to the plea agreement, on May 16, 2011, the trial court sentenced defendant to 32 months in state prison, or the lower term doubled under the Three Strikes law, for unlawfully driving or taking a vehicle, and a concurrent term of 2 years for violating probation in case No. BA378342. Defendant received presentence custody credit of 90 days (45 actual days and 45 days of conduct credit). The court ordered defendant to pay a \$200 restitution fine, a \$30 criminal conviction assessment and a \$30 court security assessment. The court imposed and suspended a parole revocation fine pursuant to Penal Code section 1202.45.

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<sup>1</sup> Case numbers refer to Los Angeles Superior Court cases.

Defendant filed a timely notice of appeal from the judgment in which he checked the preprinted boxes indicating, “This appeal is based on the sentence or other matters occurring after the plea”; and “This appeal challenges the validity of the plea or admission.” As grounds for seeking a certificate of probable cause, defendant claimed his defense counsel was constitutionally ineffective in that she was incompetent and had “scared” defendant into accepting the negotiated agreement, and defendant was unaware when he entered his plea that the victim, Raymond Bills, “didn’t want to prosecute me for this case” or seek restitution. Defendant’s request for a certificate of probable cause was denied.

We appointed counsel to represent defendant on appeal. After an examination of the record, counsel filed an opening brief in which no issues were raised. On January 26, 2012, we advised defendant he had 30 days within which to personally submit any contentions or issues he wished us to consider. On February 6, 2012, we received a hand-printed supplemental brief, in which defendant asserted his appointed counsel misled him into pleading guilty to robbery in case No. BA378342, although defendant never robbed and there was no evidence he committed the crime.

We have examined the entire record and are satisfied defendant’s attorney has fully complied with the responsibilities of counsel and no arguable issues exist. (*Smith v. Robbins* (2000) 528 U.S. 259, 277-284 [120 S.Ct. 746, 145 L.Ed.2d 756]; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113; *People v. Wende* (1979) 25 Cal.3d 436, 441.)

A criminal defendant who appeals following a plea of no contest or guilty without a certificate of probable cause can only challenge the denial of a motion to suppress evidence or raise grounds arising after the entry of the plea that do not affect its validity. (Cal. Rules of Court, rule 8.304(b).) In his request for a certificate of probable cause and supplemental brief, defendant challenges the validity of his plea or admission, as well as the validity of his sentence imposed as part of his plea. Notwithstanding the fact his constitutional claims are without support in the record, because defendant is, in substance, attacking the validity of his plea, his notice of appeal is inoperative to that

extent. (Pen. Code, § 1237.5; see *People v. Shelton* (2006) 37 Cal.4th 759, 769-771; *People v. Panizzon* (1996) 13 Cal.4th 68, 79.) In any event, the record provides no support for defendant's assertions his defense counsel provided ineffective assistance (see *Strickland v. Washington* (1984) 466 U.S. 668, 686 [104 S.Ct. 2052, 80 L.Ed.2d 674]) or there were any errors based on his sentence or other matters not affecting his plea.

The judgment is affirmed.

**WOODS, J.**

**We concur:**

**PERLUSS, P. J.**

**ZELON, J.**